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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/637,642      | 08/11/2003  | Maximilian Bossecker | 076326-0263         | 3965             |

22428 7590 06/15/2005

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EXAMINER

ENGLISH, PETER C

ART UNIT PAPER NUMBER

3616

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/637,642

Applicant(s)

BOSSECKER ET AL.

Examiner

Peter C. English

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 7-32 is/are rejected.
- 7) ☒ Claim(s) 4-6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>20030811</u> .  | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:  
59, mentioned in paragraph 49, at line 7.
2. The drawings are objected to because:  
In Fig. 2, the right-hand occurrence of reference number 5 lacks a lead line.  
In Fig. 4b, the section line labeled A-A should be deleted.
3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following features must be shown or canceled from the claims:  
A container with a ramp (claim 27).  
A middle cushion that is reinforced (claim 28; see also paragraph 23).  
Bonding areas filled by silicone adhesive (claim 32).  
No new matter should be entered.
4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

5. The specification is objected to because:

In paragraph 52, at line 1, "cusion" should be "cushion".

In paragraph 52, at line 3, "36" should be "35".

In paragraph 52, at line 6, "perpendicular" is inaccurate because something extending at a 45 degree angle (see line 7) is not "perpendicular".

In paragraph 52, at line 7, "degrees" should be inserted after "45".

In paragraph 53, at lines 2 and 11, "45" should be "55".

In paragraph 56, at line 4, "59 in Figure 5" should be "69 in Figure 4b".

Appropriate correction is required.

***Claim Objections***

6. Claim 29 is objected to because:

At line 1, "bag" should be "airbag".

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. Claim 32 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification fails to provide adequate support for an embodiment having main and secondary airbags connected by adhesive (see claim 30), wherein bonding areas are filled by silicone adhesives (claim 32). Note that according to paragraph 26, the silicone adhesive is used to seal seams, not to fill other adhesive.

8. Claims 3, 7-29, 31 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, “the car seat” (lines 2-3) and “the roof” (line 3) lack proper antecedent basis. The examiner suggests: at line 3, change “car” to “vehicle”, and change “the roof” to “a roof”.

In claim 7, “the inflated state” (lines 2 and 4), “the driver’s seat” (line 3) and “the vehicle roof” (lines 3-4) lack proper antecedent basis.

In claim 8, “their lower portion” (line 2), “their upper portion” (line 2) and “the upper portion” (lines 2-3) lack proper antecedent basis.

In claim 9, “the upper portion” (line 1) and “the roof rail” (line 2) lack proper antecedent basis.

In claim 10, at line 1, “the upper portion” lacks proper antecedent basis.

In claim 11, “the fluid connection” (line 1), “the main cushion” (lines 1-2) and “the secondary cushion” (line 2) lack proper antecedent basis.

In claim 12, at line 1, “two connecting ports” is indefinite because it is unclear what the relationship is between the ports of claim 12 and the ports of claim 11. The examiner suggests: in claim 12, at line 1, insert “the” before “two”.

In claim 13, at line 2, “the middle cushion” lacks proper antecedent basis. Note that this term is introduced in claim 4.

In claim 14, “their outer margin”(line 3), “the middle portion” (line 5), “the two outer portions” (line 6), “the two lower portions” (lines 7-8), “the mirror-image axis” (lines 8-9) and “the two upper portions” (line 9) lack proper antecedent basis.

In claim 14, at line 4, “strip-like” is indefinite because the addition of the word “like” to an otherwise definite expression extends the scope of the expression so as to render it indefinite. Note that “strip-like” also appears in claim 16.

In claim 14, at line 10, “perpendicular” is inaccurate because something extending at a 45 degree angle (see line 7) is not “perpendicular”.

In claim 17, at line 2, “their outer edges” lacks proper antecedent basis.

In claim 19, at line 2, “their upper end area” lacks proper antecedent basis.

In claim 20, at line 2, “the upper portion” lacks proper antecedent basis.

In claim 21, “their outer margin” (line 2) and “the chute” (line 5) lack proper antecedent basis. Note that the chute is introduced in claim 10.

In claim 21, at line 4, “strip-like” is indefinite because the addition of the word “like” to an otherwise definite expression extends the scope of the expression so as to render it indefinite. Note that “strip-like” also appears in claims 22 and 25.

In claim 22, at line 2, the alternative expression “and/or” renders the claim indefinite. The examiner suggests that this be changed to “or”.

In claim 23, at line 1, the alternative expression “and/or” renders the claim indefinite. The examiner suggests that this be changed to “or”.

In claim 24, at line 1, “any of claims 21” is indefinite because only a single claim number is identified.

In claim 24, “the two inside margins” (line 1), “the upper portion” (lines 1-2), “the positioning cushions” (line 2), “the lateral upper margin” (line 2) and “the main cushion” (line 2) lack proper antecedent basis.

In claim 24, at line 3, the alternative expression “and/or” renders the claim indefinite. The examiner suggests that this be changed to “or”.

In claim 25, “the two strip-like connecting areas” (line 1), “the upper cushion portion” (lines 1-2), “the at least approximately inflated state” (lines 3-4), “the middle ducts” (line 4) and “the two seams” (line 5) lack proper antecedent basis.

In claim 26, at line 1, “the lower cushion portion” lacks proper antecedent basis.

In claim 26, at lines 2-3, “as regards the desired bending” is indefinite because it is unclear how this phrase limits the claim. Further, the “desired” amount of bending will vary depending upon the application.

In claim 27, at lines 1 and 2, “the airbag” is indefinite because it is unclear which of the previously recited airbags this term refers to. Note that claim 1 recites “an airbag”, “a main airbag” and “a secondary airbag”.

In claim 28, at lines 2-3, “the upper end” lacks proper antecedent basis.

In claim 29, at lines 2-3, “the bottom outer margins” lacks proper antecedent basis.

In claim 31, at lines 1-2, “the airbag” is indefinite because it is unclear which of the previously recited airbags this term refers to. Note that claim 1 recites “an airbag”, “a main airbag” and “a secondary airbag”.

Claim 32 is indefinite for the reason given in item 7 above.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1, 2, 21-23 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Ogasawara (JP 10071915). Ogasawara discloses an air bag device 16 having a main air bag 16-1 and a secondary air bag 16-2, 16-3 that deploy between a head restraint 14 and an occupant's head. Inflation gas from an inflator 18 enters and fills the secondary air bag 16-2, 16-3 before flowing into and filling the main air bag 16-1 (see Figs. 1, 5 and 6). The main air bag 16-1 has seams 36b defining a plurality of tubular chambers 16-1a, 16-1b (see Figs. 5 and 6). The secondary airbag comprises two tubular cushions 16-2, 16-3. A container 24 for the air bags includes ramps 24a, 46 (see Fig. 4).

11. Claims 1, 21-23 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Bossecker et al. (US 6,572,137). In the embodiment of Fig. 5, Bossecker et al. discloses an air bag device 52 having a main air bag 58 and a secondary air bag 56 that deploy between a head restraint 18 and an occupant's head 30. Inflation gas from an inflator enters and fills the secondary air bag 56 before flowing into and filling the main air bag 58 (see column 6, lines 40-43). The main air bag 58 has seams defining a plurality of tubular chambers 62 (see column 6, lines 54-58). The air bag device is deployed during a rear-end collision (see the abstract, lines 10-11).

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara (JP 10071915) or Bossecker et al. (US 6,572,137). Ogasawara and Bossecker et al. lack adhesive seams. The examiner takes Official notice that adhesive seams are well-known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ogasawara or Bossecker et al. by using adhesive seams in order to reduce the permeability of the air bag along the seams.



The Bossecker et al. reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(l)(1) and § 706.02(l)(2).

#### ***Allowable Subject Matter***

15. Claims 4-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

16. Claims 3, 7-20, 24-26, 28 and 29 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***


17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Aboud et al. teaches airbag for protecting an occupant's head and neck. Cumming et al. teaches an air bag device having main and secondary air bags.

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18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter C. English whose telephone number is 571-272-6671. The examiner can normally be reached on Monday through Thursday (7:00 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Peter C. English 6/13/05  
Primary Examiner  
Art Unit 3616

pe  
13 June 2005